

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS

FREDIANDO CONTRERAS,	)	
	)	
Petitioner,	)	
	)	
vs.	)	Case No. 09-cv-1048-MJR
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

MEMORANDUM AND ORDER

REAGAN, District Judge:

Following the entry of an open guilty plea in the underlying criminal case (*United States v. Contreras*, Case No. 06-cr-30083), this Court sentenced Frediando Contreras to a total term of 210 months' imprisonment, 5 years' supervised release and a \$100.00 assessment. Judgment was entered on December 17, 2007, and Contreras appealed. The United States Court of Appeals for the Seventh Circuit issued its mandate affirming Contreras's conviction and sentence in April 2009.

In December 2009, Contreras moved to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. On December 3, 2010, the undersigned Judge dismissed Contreras's § 2255 petition and denied his request for relief. Apparently dissatisfied with this disposition, Contreras moved on May 14, 2010, for a certificate of appealability.

In that motion (Doc. 11), Contreras asserts that a certificate of

appealability should issue because “the Government was constitutionally prohibited to bring its new PSR unproven ‘criminal facts’ and offense, ‘organizer-leader of a criminal conspiracy involving 5 or more participants’”; and the undersigned Judge was constitutionally prohibited from finding Contreras guilty on this “unproven offense.” According to the motion, these errors led to a lengthier sentence than was authorized under the sentencing guidelines.

A certificate of appealability is needed to proceed with an appeal from this Court’s § 2255 ruling. **See 28 U.S.C. 2253(c)(1)(B).** But the undersigned Judge concludes that Contreras is not entitled to a certificate, because he lacks a substantial constitutional question. Put simply, Contreras has not made a “substantial showing of the denial of a constitutional right.” **28 U.S.C. 2253(c)(2).**

For the reasons thoroughly discussed in this Court’s Order dismissing the § 2255 petition, the Court concludes that Contreras has *not* made the requisite showing to support issuance of a certificate of appealability and therefore **DENIES** his motion (Doc. 11).

IT IS SO ORDERED.

DATED this 3rd day of January 2011

**s/Michael J. Reagan**  
MICHAEL J. REAGAN  
United States District Judge